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Knut Haber-Land-Schlosser

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EXAMINER

KIM, TAE K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/517,018	Applicant(s) HABER-LAND-SCHLOSSER ET AL.	
	Examiner TAE K. KIM	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/07/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to the Applicant's response filed on August 7, 2008. Claims 1, 2, 6, 11, 14, 15, 19, 20, and 24 have been amended. Claim 23 has been cancelled. Claims 25 and 26 have been added by the Applicant. Claims 1 – 22, and 24 – 26, where Claims 1, 19, and 24 are in independent form, are presented for examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 7, 2008 has been entered.

Response to Arguments

Applicant's arguments filed August 7, 2008 have been fully considered but they are not persuasive. Applicant argued:

- a) Kehr does not disclose of "determining information about *environmental conditions* of a mobile telephone device" (emphasis added).

Examiner respectfully disagrees with applicant's assertions.

1. With regards to a), the examiner points out that the pending claims must be "given the broadest reasonable interpretation consistent with the specification" [In re

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Prater, 162 USPQ 541 (CCPA 1969)] and "consistent with the interpretation that those skilled in the art would reach" [In re Cortright, 49 USPQ2d 1464 (Fed. Cir. 1999)].

The term environment refers to circumstances or conditions that surround someone or something. As claimed, the environmental conditions of a mobile phone are not limited to information related to actual weather conditions, such as temperature, atmospheric pressure, and humidity as the Applicant argues in the remark. The cited passage in the specification does not indicate environmental conditions as being defined to only include weather conditions.

Additionally, this broader interpretation is further evidenced by Applicant's newly added claim 26, which state that "*said environmental conditions of said mobile telephone device includes position information of said mobile telephone device*" (emphasis added). Claim 25 provides similar rationale, where "*said automatically determining information about environmental conditions comprises automatically determining position information*" (emphasis added).

Given the broadest reasonable interpretation of the claims, Kehr meets the limitation of "determining information about *environmental conditions* of a mobile telephone device." These limitations are mapped in the prior art rejections below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 16 – 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In view of Applicant's disclosure, the

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medium is not limited to tangible embodiments [See Spec. Para. 0034]. Therefore, the claimed subject matter can be interpreted as a carrier wave or other propagation medium and is non-statutory per se.

To overcome this type of 101 rejection, the claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media. Amending the claims to state "computer readable storage medium" would overcome this rejection.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 – 7, 8, 11, 19 – 21, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by the published thesis “Look Ma’, My Homepage is Mobile!,” written by Roger Kehr and Andreas Zeidler (hereinafter referenced as “Kehr”).

3. Regarding Claims 1 and 2, Kehr discloses a method for:

automatically determining information about environmental conditions of a mobile telephone device [Pgs. 1 – 3; the homepage is dynamically adapted to the environment a mobile user is currently in, without interaction from the mobile user (automatically), such as location (country, network, area) and text configuration notifying the new and updated status of the user or the user’s mobile device]; and

automatically adapting a mobile homepage in accordance with said determined information about said environmental conditions of said mobile telephone device [Pgs. 1 – 3; discloses a mobile homepage system built on top of an implementation of small

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web server inside a SIM of a mobile communication device, where the homepage is dynamically adapted to the environment a mobile user is currently in, without interaction from the mobile user (automatically), such as location (country, network, area) and text configuration notifying the new and updated status of the user or the user's mobile device (evaluating determined environment information with regard to different environment information and adapting the homepage in accordance with a result of the evaluation)].

4. Regarding Claims 3 and 4, Kehr discloses all the limitation of Claim 1 above. Kehr further discloses that the mobile device dispatches a communication request and receives a communication request [Pg. 2; after incoming HTTP requests are parsed (receiving), the commands encoded in the URL are executed and the responses are sent back by SMS (dispatching) to the proxy where the server returns a document that describes the requested information].

5. Regarding Claim 5, Kehr discloses all the limitation of Claim 3 above. Kehr further discloses that the communication request is a multimedia call [Pg. 2; communication from the internet is achieved by a so-called proxy server and the HTTP requests are tunneled within SMS messages (multi-media call) sent from a mobile phone attached to the proxy server].

6. Regarding Claim 6, Kehr discloses all the limitation of Claim 1 above. Kehr further discloses that said information about said environmental conditions of said mobile telephone device comprises communication properties [Pg. 2; returned

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homepage information can contain the country, the operator network (communication properties), and location information].

7. Regarding Claim 7, Kehr discloses all the limitation of Claim 1 above. Kehr further discloses that the mobile device transmits the generated mobile homepage [Pgs. 2 – 3; the homepage is generated and automatically returned to the person requesting that information].

8. Regarding Claim 8, Kehr discloses all the limitation of Claim 1 above. Kehr further discloses that the mobile device receives an identification of the originator of a communication attempt [Fig. 2; Pg. 2; figure shows that the originator of the communication attempt is displayed to the user to determine whether or not the request should be answered].

9. Regarding Claim 11, Kehr discloses all the limitation of Claim 1 above. Kehr further discloses that the mobile telephone device can download the contents of a mobile homepage of said mobile telephone device, storing said downloaded mobile homepage on a server, said server containing a homepage, thereby automatically updating said homepage on said server according to said mobile homepage of said mobile telephone device [Pg. 3; each user has the ability to upload the homepage to the proxy server].

10. Regarding Claims 19 and 20, Kehr discloses a mobile telephone device comprising of a server that provides a server functionality to said mobile telephone device [Fig.1; Pg. 2; proxy server that implements many of the functionality needed for the provision of mobile users' homepages], a storage for storing at least one homepage

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on said mobile telephone device [Pg. 2 – 3; homepage is implemented inside a SIM, which has computing power and memory, inside the mobile device], characterized by a processor configured to determine information about environmental conditions of said mobile telephone device and to adapt said homepage according to said determined information about said environmental conditions of said mobile telephone device [Pgs. 2 – 3; homepages are dynamically adapted to the environment a mobile user is currently in such as location (country, network, area) and text configuration notifying the new and updated (evaluating environment information with different environment information) status of the user or the mobile device].

11. Regarding Claims 21, Kehr discloses all the limitation of Claim 19 above. Kehr further discloses that the mobile telephone device has a processor configured to connect said mobile telephone to a server, and configured to transfer the contents of a mobile homepage of said mobile telephone device to said server [Pg. 3; each user has the ability to upload the homepage to the proxy server].

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of U.S. Appl. 2002/0180579 A1, filed by Tatsuji Nagaoka et al. (hereinafter referenced as “Nagaoka”).

12. Regarding Claims 9 and 10, Kehr discloses all the limitations of Claim 6 as stated above. Kehr, however, does not specifically disclose that the communications

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properties comprise of information about a communication connection or communication state of the mobile telephone.

Nagaoka discloses the use of stored communication capacity information to determine how to display the requested service onto the mobile device: the maximum communication speed, display capacity, and communication standard associated with the corresponding model of the mobile telephone [Pg. 5, Para. 0085; Pg. 7, Para. 0133]. It would be obvious to one skilled in the art to incorporate the teachings of Nagaoka with Kehr since the communication speed and other properties of the mobile device will determine how much homepage information can be stored within the mobile device and the speed in which this information can be delivered to a request of this information. The communication capacity information of a particular mobile device can determine how the homepage is delivered from the mobile device, which can be used to determine possible solutions for low bandwidth or memory size that may lower the quality of service in supplying the homepage.

Claims 14, 16 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of U.S. Patent 5,956,487, invented by Chandrasekar Venkatraman (hereinafter referenced as “Venkatraman”).

13. Regarding Claim 14, Kehr discloses all the limitations of Claim 1 as stated above. Kehr, however, does not specifically disclose that the homepage is hypertext markup language or extensible hypertext markup language.

Venkatraman discloses the use of HTML to create a webpage [Col. 3, Lines 29-30]. It would have been obvious to one skilled in the art at the time the application was

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filed to create the homepage was an HTML file. HTML allows the homepage to contain text, images, multimedia files, forms, and tables that are supported by HTML protocols [Col. 3, Lines 39-41]. The various object types that are supported by HTML allow the user to customize the homepage with more than simple text.

14. Regarding Claims 16 – 18, Kehr discloses all the limitations of Claim 1 as stated above. Kehr, however, does not specifically disclose of a software tool, computer program code, or a computer program product stored in a computer readable medium comprising of program code means for carrying out the steps of automatically adapting the contents of a mobile homepage when the program is run on a computer, a network device, or a mobile telephone device.

Venkatraman discloses that the web server functionality of a device includes software executed by a processor to serve the HTTP protocols commands and generate the HTML formatted files [Col. 4, Lines 51-53]. Venkatraman also discloses that the device includes a web server that provides web server functions [Fig. 1a; Col. 3, Lines 5-16] and that the communication mechanisms can include local area networks, cellular telephone links, serial communication links, or a direct connection to the internet [Col. 3, Lines 64 – Col. 4, Lines 4]. Furthermore, Venkatraman discloses that the device comprises of a processor, memory, device-specific hardware, and input/output circuitry and the firmware or software is stored in the available memory [Fig. 1b; Col. 4, Lines 5-8 and 37-41]. It would have been obvious to one skilled in the art at the time the application was filed that to create and modify a homepage requires that software or computer code is used to process the web server functionality necessary. Furthermore,

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it is also obvious to one skilled in the art that the software program is stored on a computer readable medium within the device. Software or computer code is necessary for a processor to determine how to process certain inputs and produce certain outputs within a communication system. Storing the software in a computer readable medium allows the processor to perform other its functions continuously without user input.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of U.S. Patent 6,430,624 B1, invented by Mark Jamtgaard et al. (hereinafter referenced as “Jamtgaard”).

15. Regarding Claim 15, Kehr discloses all the limitations of Claim 1 as stated above. Kehr, however, does not specifically disclose that the homepage is a wireless markup language homepage.

Jamtgaard discloses the use of wireless markup language (WML) protocol to provide internet content on a mobile phone [Fig. 1; Col. 1, Lines 46-55]. It would have been obvious to one skilled in the art at the time the application was filed that WML could also be used to display the homepage. A device that is able to support a multitude of different markup languages, protocols, and browsers will effectively establish a wireless presence within a given market.

Claim 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of U.S. Patent 6,496,949 B1, invented by Dimitri Kanevsky et al. (hereinafter referenced as “Kanevsky”).

16. Regarding Claims 12 and 22, Kehr discloses all the limitations of Claims 11 and 21 as stated above. Kehr, however, does not specifically disclose that downloading is

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initiated when it is detected that the attainability of the mobile device is expected to be reduced.

Kanevsky discloses an emergency backup system for backing up data on one or more computer located in an identified danger zone where a remote sensor sends a signal to the “endangered” computers to download data when it detects the occurrence of an emergency condition [Abstract; Col. 2, Lines 27-49]. Kanevsky further discloses that this system can be implemented within a wireless network and a PDA (Abstract). It would be obvious to one skilled in the art to incorporate the teaching of Kanevsky with Kehr due to the instability or the availability of network devices. When a wireless device is used to directly response to requests for information, downloading that information to another storage device, whenever there are issues regarding the availability of the wireless device, allows the requested information to be available if the wireless device is not. Backing up the data also allows retrieval of that information by the wireless device if any information is lost.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of U.S. Appl. 2002/0188887 A1, invented by Kenneth Largman et al. (hereinafter referenced as “Largman”).

17. Regarding Claim 13, Kehr discloses all the limitations of Claim 1 as stated above. Kehr, however, does not specifically disclose that when the mobile device is not connectable, the communication request is rerouted to another device to retrieve that request.

Largman discloses an emergency startup system that switches to a separate data storing device within the system when the primary device is not available [Pg. 6, Para. 0128]. It would be obvious to one skilled in the art to incorporate the teaching of Largman with Kehr due to the instability of wireless signals. When a wireless device is used to directly response to requests for information, alternative destinations to retrieve the required information if the wireless device is unavailable will provide consistent service to those requesting it.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr, in view of Kanevsky, in further view of Largman et al.

18. Regarding Claim 24, Kehr discloses a network server [Pg. 2; proxy server], connectable to a mobile telephone device [Pg. 2; proxy server attached to the mobile phone], comprising:

a storage for storing at least one homepage [Pgs. 2-3; proxy server implements many of the functionality needed to provision the homepage, such as storage space and a database];

a processor configured for downloading a mobile homepage from said mobile telephone device, said mobile homepage having information about environmental conditions of said mobile telephone device [Pg. 2; the command executed by the proxy server returns the information regarding the mobile phone from the mobile phone; the information includes location information, country and operator network]; and

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the storage being connected to said processor for storing said downloaded homepage [Pg. 3; database on proxy server is implemented to map received location information to textual descriptions].

Kehr, however, does not specifically disclose that downloading is initiated when it is detected that the attainability of the mobile device is expected to be reduced. Kehr also does not disclose that the server is configured for providing said mobile homepage by said server in case said mobile device is not attainable.

Kanevsky discloses an emergency backup system for backing up data on one or more computer located in an identified danger zone where a remote sensor sends a signal to the “endangered” computers to download data when it detects the occurrence of an emergency condition [Abstract; Col. 2, Lines 27-49]. Kanevsky further discloses that this system can be implemented within a wireless network and a PDA (Abstract). It would be obvious to one skilled in the art to incorporate the teaching of Kanevsky with Kehr due to the instability or the availability of network devices. When a wireless device is used to directly response to requests for information, downloading that information to another storage device, whenever there are issues regarding the availability of the wireless device, allows the requested information to be available if the wireless device is not. Backing up the data also allows retrieval of that information by the wireless device if any information is lost.

Kanevsky, however, does not specifically disclose that the backup server is configured for providing said mobile homepage by said server in case said mobile device is not attainable.

Largman discloses an emergency startup system that switches to a separate data storing device within the system when the primary device is not available [Pg. 6, Para. 0128]. It would be obvious to one skilled in the art to incorporate the teaching of Largman with Kehr due to the instability of wireless signals by directing the information request sent by the user to use information previously stored in the proxy server. Doing so will allow user requests to be fulfilled when a server that is used to directly response to requests for information is not available by providing alternative destinations to retrieve the required information. The motivation to do so is to provide seamless service to users.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Appl. 2002/0022490 - system and method of acquiring location information when direct reception by a mobile phone is difficult; U.S. Appl. 2001/0030624 – system and method of generating and transmitting weather related data to a subscriber based on the location of the subscriber.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae K. Kim, whose telephone number is (571) 270-1979. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess, can be reached on (571) 272-3949. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone

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number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the examiner at (571) 270-2979.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Tae K. Kim/

/Aaron Strange/
Examiner, Art Unit 2153